

REMARKS

By the *Office Action* marked non-final of 24 December 2008, Claims 21-34 are pending in the Application, with Claims 21-34 being rejected. Claims 21, 25, 26, 29 and 32 are independent claims. Applicant and Applicant's counsel thank the Examiner with appreciation for the careful examination. No new matter is believed introduced by this submission.

Applicant files this *Response to Office Action* solely to facilitate prosecution. As such, Applicant reserves the right to pursue claims of broader or similar scope as originally filed in a continuation application or other application after allowance of the present application. Applicant does not concede that the current or past rejections are correct and reserves the right to challenge such rejections later in prosecution or on appeal. Accordingly, any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter.

After entry of this *Response to Office Action*, Claims 21-34 are pending. Applicant respectfully asserts that the pending claims are in condition for allowance and respectfully requests reconsideration of the claims in light of the following remarks.

I. Rejection Of Claims 21-34 Under 35 U.S.C. § 101

The Examiner rejects Claims 21-34 under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner states that in order for a method claim to be considered a "process" under §101, it must be either tied to another statutory class (such as a particular apparatus) or transform underlying subject matter. *See Office Action, 12/24/08, p.2.* The Examiner further states that the independent claims in this case do not include the required tie or transformation and thus are directed to non-statutory subject matter. *Id.* For example, according to the Examiner, Claim 21 only comprises steps for data manipulation, and Claims 21-34 are non-statutory, because they may be performed within the human mind.

Applicant respectfully traverses this rejection. Applicant respectfully submits that one skilled in the art reading the limitations of Claim 21 would conclude that Claim 21 relates to: a method of controlling access of a user over a communication network via a network access provider to a service provided over the communication network during a communication session. *See Claim 1.* Notably, these limitations are recited in Claim 1.

Applicant respectfully submits that a communication network is a tangible apparatus. The method described in Claim 21 occurs over an existing communication network (more specifically, a communication network wherein the user is anonymous); thus, the recitation of the communication network ties the process to a statutory class.

As presented by the Applicant in a previous response, the process recited in Claim 21 has a useful, concrete tangible result (*see* MPEP §2106) of providing or denying the user with access to a service that is provided over the communication network. Consequently, the process is not a thought process or merely a process of shifting bits over communication lines.

Applicant is not required to explicitly state the above observation that is clear from the limitations of the claim in the preamble, although applicant would be willing to amend the preamble in an *Ex parte Quayle* Action, if requested by the Examiner in order to allow the case.

In addition, various types of services are listed as a *Markush* group in Claim 22, which is dependent upon Claim 21. As recited in Claim 22, a user that is denied access to his online banking account or denied access to his e-mail based on the claimed process determines that the results of the process in Claim 21 are tangible. Thus, Applicant respectfully submits that Claim 22 overcome the 35 U.S.C. §101 rejection.

Furthermore, various types of communication networks are presented as a *Markush* group in Claim 23, which is dependent upon Claim 21. As a result, even if the Examiner can identify a communication network satisfying the limitations of Claim 21 that is not a tangible apparatus, those listed in Claim 23 must be considered a tangible apparatus and hence meet the statutory requirements. Thus, Applicant respectfully submits that Claim 23 overcome the 35 U.S.C. §101 rejection.

Consequently, Claim 21 recites a process tied to a tangible apparatus and the process provides useful, concrete and tangible results. Applicant respectfully submits that Claim 21 meets the statutory requirements and should not be rejected under 35 U.S.C. §101. Its dependent claims further limit Claim 21 and also meet the statutory requirements.

Likewise, the other independent claims – i.e., Claims 25-26, 29, and 32 – relate to providing similar tangible services over communication networks and are also patentable.

Specifically:

Claim 25 relates to a method of providing a telephone call identifier over a

communication network;

Claim 26 relates to a method of verifying that an anonymous communication network user is an adult;

Claim 29 relates to a method of handling telephone calls over a communication network during a dial up Internet connection session; and

Claim 32 relates to a system for handling telephone calls over a communication network.

The dependent claims are patentable at least for at least their dependency on the patentable independent claims.

In view of the above, Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. §101.

The 24 December 2008 *Office Action* is the third non-final communication regarding the merits of the case. The Examiner has thus far not located any prior art to invalidate the patentability of the claims. Accordingly, Applicant earnestly requests allowance of the claims.

II. Fees

This *Response to Office Action* is being filed within three months of the *Office Action*. Therefore, no extension of time fee is believed due.

In addition, no additional fees are believed due.

Nevertheless, Applicant expressly authorizes the Commissioner to charge deposit account No. 20-1507 for any fees deemed due, including any miscalculations of fees due, and to credit any overpayment.

CONCLUSION

By the present *Response to Office Action*, Applicant respectfully submits that Claims 21-34 are in full condition for allowance. Accordingly, Applicant respectfully requests early and favorable action. Should the Examiner have any further questions or reservations, the Examiner is invited to telephone the undersigned Attorney at 404.885.3340.

Respectfully submitted,

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on **24 March 2009**.

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